

SUMMARY REPORT

CHICAGO POLICE DEPARTMENT

LOG NO
1080120

TYPE
CR

DATE OF REPORT
29-NOV-2017

INSTRUCTIONS: SUBMIT ORIGINAL AND 3 COPIES IF ASSIGNED TO SAME UNIT AS ACCUSED.
SUBMIT ORIGINAL AND 4 COPIES IF NOT ASSIGNED TO SAME UNIT AS ACCUSE

TO: ☐ CHIEF ADMINISTRATOR,
INDEPENDENT POLICE REVIEW AUTHORITY ☐ CHIEF,
BUREAU OF INTERNAL AFFAIRS

FROM - INVESTIGATOR'S NAME	RANK	STAR NO	EMPLOYEE NO	UNIT ASSIGNED	UNIT DETAILED
FITZPATRICK, KELSEY	9181			113	

REFERENCE NOS.(LIST ALL RELATED C.L., C.B., I.R., INVENTORY NOS., ETC., PERTINENT OF THIS INVESTIGATION)

INCIDENT ADDRESS: 5107 W. MADISON ST, CHICAGO, IL 60644	DATE / TIME: 27-FEB-2016 00:02	BEAT: 1533
INCIDENT ADDRESS:	DATE / TIME: 14-APR-2016 21:04	BEAT: 1533

ACCUSED

NAME	RANK	STAR NO	EMP NO	UNIT ASSIGNED	UNIT DETAILED	SEX/RACE	DOB	APPOINTED DATE	ON DUTY ?	SWORN ?
RIZZI, JOSEPH W	9161	3808		313		M / WHI	1969	05-JUN-1995	YES	YES
CERDA, JORGE	9161	10607		313		M / S	1969	02-MAY-1994	YES	YES
STEVENS, PETER	9161	11114		189		M / API	1979	25-OCT-2004	YES	YES

REPORTING PARTY

NAME	ADDRESS*	CITY STATE	TELEPHONE	SEX / RACE	DOB / AGE
				M / BLK	

VICTIMS

NAME	ADDRESS*	CITY STATE	TELEPHONE	SEX / RACE	DOB / AGE
				M / BLK	

WITNESSES

NAME	ADDRESS*	CITY STATE	TELEPHONE	SEX / RACE	DOB / AGE
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* IF CPD MEMBER, LIST RANK, STAR, EMPLOYEE NOS. IN ADDRESS, PAX/BELL IN TELEPHONE BOX.

ALLEGATIONS

** SEE LAST PAGE FOR INSTRUCTIONS FOR STATING ALLEGATIONS, AND COMPLETING THE REMAINDER OF THE SUMMARY REPORT.

INSTRUCTIONS FOR THE SUMMARY REPORT

AFTER COMPLETING THE FORM, CONTINUE THE SUMMARY REPORT ON 8 1/2 x 11 INCH WHITE PAPER.

ALLEGATIONS

In narrative form, state how, when, where, and by whom the complaint was received. State the date, time, and location where the incident occurred, and summarize the complaint. If more than one allegation is made, enumerate each allegation as follows:

No. 1 (Summarize the allegation)

No. 2 (Summarize the allegation)

2. EVIDENCE

Number and attach all statements, reports, and other evidence gathered, on the lower right hand corner. The Complaint Log number must also be entered on the lower right hand corner of each attachment. Following are numbered (EXAMPLES ONLY).

Attachments:

- No. 1 Face Sheet - Yellow
- No. 2 Letter of complaint from victim
- No. 3 Statement of victim
- No. 4 Statement of witness (give name)
- No. 5 Report of member (give name)
- No. 6 Statement of member (give name)
- No. 7 Progress report of investigator (give name)
- No. 8 Copy of certified letter to reporting party
- No. 9 Copy of Alcoholic Influence Report (accused)
- No. 10 General Offense Case Report, R.D. _____
- No. 11 Signed Sworn Affidavit

3. INVESTIGATION

In narrative form, indicate the fact-finding processes followed and the information ascertained as a result of the investigation. Whenever reference is made to an attachment, indicate the attachment number.

4. FINDINGS

Each allegation must be classified as either of the following:
Unfounded - Exonerated - Not Sustained - Sustained - No Affidavit.

If the classification is "Sustained," indicate the rule number violated, the context of the rule, and how the rule was violated by the member.

Example: Allegation No. 1. Unfounded

Allegation No. 1. Sustained - Violation of Rule 12, Failure to wear the uniform as prescribed, in that on 27 Feb 84 the accused was found to be wearing a non-prescribed short sleeve shirt.

Even though the original allegation(s) may be Unfounded, etc., the investigation may uncover a violation of serious nature unrelated to the original complaint, in which case disciplinary action should be recommended for the other violation.

Example: Allegation No. 1. Unfounded

Allegation No. 2. Not Sustained Other violation: Sustained-Violation of Rule 26, Failure to provide the Department with a current address and telephone number, in that the accused related in his statement that he had moved and obtained a new telephone number and he had failed to provide this information to the Department.

SUMMARY OF PREVIOUS DISCIPLINARY ACTIONS and RECORD OF PREVIOUS COMPLIMENTARY HISTORY IN SUSTAINED CASES ONLY, copies of the accused member's Summary of Previous Disciplinary Actions and Record of Previous Complimentary History will be included as attachments to the final investigation report. Refer to the General Order entitled "Complaint and Disciplinary Procedures."

5. RECOMMENDATION FOR DISCIPLINARY ACTION

One (overall) recommendation for disciplinary action will be made by the investigator. The recommendation will be for all sustained findings; recommendations will not be made for each sustained allegation

Examples:

- 1. Violation noted, no disciplinary action warranted.
- 2. That the accused member be reprimanded.
- 3. That the accused member be suspended for days
- 4. That the accused member be separated from the Department.

6. DATE INITIATED: (Date complaint was received for investigation)

7. DATE COMPLETED: (Date of this report)

8. ELAPSED TIME: (Total time, expressed in days)

(Investigator)			
Rank	Name	Star No.	Unit

9. APPROVALS

The investigator will initiate the Command Channel Review form (CPD-44. 113-A) by completing the Investigator section.

SUMMARY OF INCIDENT

On February 27, 2016 at approximately 12:23 AM at a Marathon Gas Station located at 5107 W. Madison Ave., two police officers, Joseph Rizzi and Jorge Cerda, and a sergeant, Luis Gonzalez, were involved in the arrest of the complainant, [REDACTED], for loitering. Both officers allegedly arrested [REDACTED] without justification and Officer Rizzi allegedly used a racial slur and stole [REDACTED] cellphone.

Additionally, it is alleged that on April 14, 2016, near [REDACTED] residence at [REDACTED] at approximately 9:25 PM, Officer Rizzi and Officer Cerda, along with Officer Peter Stevens, searched [REDACTED] vehicle without justification and disabled [REDACTED] vehicle. (Atts. 8, 9, 10, 11, 12)

ALLEGATIONS

The complainant, [REDACTED], was identified following a telephone call from the complainant to the Independent Police Review Authority (IPRA) on April 14, 2016.¹ COPA personnel subsequently conducted an interview with [REDACTED].

[REDACTED] alleges that that on February 27, 2016 at approximately 12:23 AM while at a Marathon Gas Station located at 5107 W. Madison Ave.:

Officer Joseph Rizzi, Star 3808

- Allegation 1:** arrested [REDACTED] without justification, in violation of Rule 2 and in violation of Rule 6 in relation to the Fourth Amendment to the United States Constitution.
- Allegation 2:** referred to [REDACTED] as a “fucking nigger,” in violation of Rule 2, Rule 6 in relation to Chicago Police Department General Order G02-03, Rule 8, and Rule 9.
- Allegation 3:** took [REDACTED] cellphone and failed to inventory or return it, in violation of Rule 2, Rule 6 in relation to Chicago Police Department General Order G07-01, and Rule 40.

Officer Jorge Cerda, Star 1607

- Allegation 1:** arrested [REDACTED] without justification, in violation of Rule 2 and in violation of Rule 6 in relation to the Fourth Amendment to the United States Constitution.

[REDACTED] also alleges that on April 14, 2016 at approximately 9:25 PM near [REDACTED] residence at [REDACTED]:

Officer Joseph Rizzi, Star 3808

- Allegation 4:** Searched [REDACTED] vehicle without justification, in violation of Rule 2 and Rule 6 in relation to the Fourth Amendment to the United States Constitution.

¹ On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Thus, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

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Allegation 5: Disabled [REDACTED] vehicle, in violation of Rule 2, Rule 6 in relation to Chicago Police Department General Order G02-03, and Rule 8.

Officer Jorge Cerda, Star 1607

Allegation 2: Searched [REDACTED] vehicle without justification, in violation of Rule 2 and Rule 6 in relation to the Fourth Amendment to the United States Constitution.

Allegation 3: Disabled [REDACTED] vehicle, in violation of Rule 2, Rule 6 in relation to Chicago Police Department General Order G02-03, and Rule 8.

Officer Peter Stevens, Star 1114

Allegation 1: Searched [REDACTED] vehicle without justification, in violation of Rule 2 and Rule 6 in relation to the Fourth Amendment to the United States Constitution.

Allegation 2: Disabled [REDACTED] vehicle, in violation of Rule 2, Rule 6 in relation to Chicago Police Department General Order G02-03, and Rule 8.

APPLICABLE RULES AND LAWS

Rule 2 prohibits, "Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department."

Rule 6 prohibits, "Disobedience of an order or directive, whether written or oral."

Rule 8 prohibits, "Disrespect to or maltreatment of any person, while on or off duty."

Rule 9 prohibits, "Engaging in any unjustified verbal or physical altercation with any person, while on or off duty."

Rule 40 prohibits, "Failure to inventory and process recovered property in conformance with Department orders."

Chicago Police Department General Order G02-03

"All interactions with members of the public will be conducted with the upmost respect and courtesy and be based on the concepts of Procedural Justice and Legitimacy. During each interaction, Department members will strive to attain the highest degree of ethical behavior and professional conduct at all times."

Chicago Police Department General Order G07-01

"All property which is seized, recovered, found, or otherwise taken into custody by Department members will be inventoried as soon as it is practical to do so."

"Such property must be returned to the arrestee at the time of release or transfer. If the property will not be returned at that time, it will be inventoried in the eTrack system."

"Members will not solicit or accept for their personal use any property taken into custody."

The Fourth Amendment to the Constitution of the United States

The Fourth Amendment to the Constitution of the United States guarantees protection from unlawful arrest and unreasonable search and seizure to all persons in this country.

INVESTIGATION

In an **Interview** with COPA on April 15, 2017, the **Complainant**, [REDACTED], related that on February 27, 2016, he was in the parking lot of a Marathon Gas Station located at 5701 W. Madison Ave. at approximately 11:45 PM. According to [REDACTED], he was parked in the gas station parking lot and returning to his vehicle after making a purchase at the Marathon Gas Station. [REDACTED] stated that he was putting on his seat belt and listening to the radio when a dark gray police SUV pulled next to him and Chicago police officers (identified as Officer Joseph Rizzi and Officer Jorge Cerda) approached [REDACTED], asked what he was doing at this location, and requested his license and insurance.

[REDACTED] related he was next asked to exit the vehicle, which he did, when Officer Rizzi grabbed [REDACTED] and asked [REDACTED] if he was selling drugs. According to [REDACTED], he then told the officers they did not have permission to search his vehicle. Officer Rizzi allegedly responded by telling [REDACTED] to "shut up" and making fun of [REDACTED] "girl jeans." According to [REDACTED] when Officer Rizzi instructed him to get into the police vehicle, [REDACTED] offered resistance and told the officers that he wanted to speak with the sergeant who was present (identified as Sergeant Luis Gonzalez) because he was not comfortable with Officer Rizzi and Officer Cerda. [REDACTED] stated that at this point, Officer Rizzi and Officer Cerda grabbed [REDACTED], and Officer Rizzi made a comment to the effect of, "This fucking nigger."

Next, [REDACTED] indicated that Sergeant Gonzalez approached the three men and began talking to [REDACTED]. [REDACTED] related that he agreed to get into Sergeant Gonzalez's vehicle because he felt safe with the sergeant. [REDACTED] further stated that when he asked Sergeant Gonzalez why he was being taken into custody, the sergeant did not know. [REDACTED] stated that Sergeant Gonzalez then transported him to the police station. [REDACTED] denied that he had been told by either the police officers or by a gas station employee that a trespassing complaint would be issued if came on the Marathon Gas Station property. Furthermore, [REDACTED] stated that during this incident on February 27, 2016, Officer Rizzi stole his Galaxy S6 Edge cellphone. According to [REDACTED], he instructed individuals in the area to record his arrest since he felt unsafe and he related to COPA that there was video footage available. However, COPA has made multiple attempts to obtain this footage from [REDACTED] but he has not produced any video at the time of this report.

Additionally, [REDACTED] indicated that after this incident, he returned to the gas station to talk to an employee named [REDACTED], who told [REDACTED] that Officer Rizzi and Officer Cerda had been harassing the gas station employees. [REDACTED] also related that on a previous occasion, he and a friend were driving to a culinary arts program when Officer Rizzi and Officer Cerda pulled their car over for a traffic stop and arrested [REDACTED] for being in the presence of a felon while on parole.²

Finally, [REDACTED] stated that on April 14, 2016, he was in his home at [REDACTED] when he heard his car alarm going off. [REDACTED] related that he went downstairs to investigate and heard people arguing with

² Details from this traffic stop and subsequent arrest are included below and in Attachment 55.

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police officers (identified as Officer Rizzi, Officer Cerda, and Officer Peter Stevens) because the officers were searching [REDACTED] vehicle, a [REDACTED]. According to [REDACTED], he went outside and asked the officers why they were in his car but they told him to "shut up." [REDACTED] indicated that the police officers gained access to his vehicle because his windows were down. [REDACTED] also related that after the officers searched his vehicle, his car would no longer start and it was not working at the time of his COPA interview. (Atts. 8, 9, 10, 27, 28)

Chicago Police Department Records were obtained regarding [REDACTED] February 27, 2016 arrest for criminal trespass to land. The Original Case Incident Report provided a complainant named [REDACTED] who was an employee at the Marathon Gas Station located at 5701 W. Madison Ave.³ Officer Rizzi and Officer Cerda authored this document, which states that [REDACTED] is a member of the [REDACTED] street gang. The narrative portion of the Original Incident Report states that Officer Cerda and Officer Rizzi, as members of the [REDACTED], were aware of loitering and narcotic transactions occurring at this gas station. The narrative further indicates that on February 27, 2016, the two officers observed [REDACTED] in the parking lot. According to available details, [REDACTED] had previously been told not to enter this property so the officers approached him, had him exit his vehicle, and detained [REDACTED]. Furthermore, it is reported that [REDACTED] had previously stated he would sign complaints for criminal trespass to land if gang members and/or narcotics solicitors were on the gas station property. The report states [REDACTED] signed a complaint and [REDACTED] was arrested and transported to the 25th District. A Detective Supplementary Report and an Arrest Report were also obtained for this incident that contained similar information. Lastly, a Chicago Police Department Inventory Report from this arrest indicates that officers inventoried a necklace, a pair of earrings, and a watch. A cellphone was not listed on this inventory report. (Atts. 11, 12, 13, 51)

A **General Offense Case Report** was located for a May 12, 2017 incident in which [REDACTED] was arrested for cannabis manufacture/delivery near a school. [REDACTED] was arrested at the Marathon Gas Station located at 5107 W. Madison St. According to this report, [REDACTED] possessed eight grams of a substance suspected to be cannabis. The Incident Narrative portion of this report states that [REDACTED] was conducting surveillance when [REDACTED] was observed engaging in a hand-to-hand transaction with an unidentified male. It was also reported that [REDACTED] was belligerent and did not comply until Officer Cerda unholstered his Taser and pointed the weapon at [REDACTED]. This report also stated that [REDACTED] is a [REDACTED]. The first arresting officer for this incident was Officer Matthew Scanlan, Star 9163, and the second arresting officer was Officer Jorge Cerda. (Att. 54)

Additionally, a **General Offense Case Report** was located for [REDACTED] aforementioned May 15, 2014 arrest for unlawful contact with streetgang members. The narrative portion of this document relates that Officer Rizzi and Officer Cerda pulled over a vehicle that failed to stop at a stop sign. The driver of the vehicle, [REDACTED], did not have a driver's license and was on parole. [REDACTED] was identified as a member of the [REDACTED]. [REDACTED] was a passenger in this vehicle and was on parole. The report articulated that the reason for [REDACTED] arrest was a violation of a condition of [REDACTED] parole to have no contact with known streetgang members. (Att. 55)

A **To-From Report** was generated by COPA on April 26, 2016 regarding attempts to contact [REDACTED], the Marathon Gas Station Employee who signed the complaint against [REDACTED] on February 27, 2016. The provided telephone number for [REDACTED] was answered by an individual identified as [REDACTED]

³ Chicago Police Department Records for [REDACTED] February 27, 2016 arrest incorrectly provide an address of 5701 W. Madison St. for the Marathon Gas Station. The correct address is 5107 W. Madison St.

██████████, who related that ██████████ had left the country. ██████████ related that he formerly worked at the Marathon Gas Station located at 5107 W. Madison and he recalled ██████████ selling drugs on the gas station's property. ██████████ related that ██████████ had been told to leave the gas station and that ██████████ presence on the property at any future time would be considered trespassing and he would be arrested. Additional attempts to reach ██████████ have been unsuccessful. (Atts. 15, 16)

In an **Interview** with COPA on July 26, 2017, **Officer Joseph Rizzi, Star #3808**, stated that he knows ██████████ is a high-ranking member of the ██████████ who operates marijuana sales in the area of Leamington Street and Madison Avenue, Leamington Street and Monroe Street, and at Leamington Street and Adams Street. Officer Rizzi related that he talks to ██████████ regarding criminal activity when ██████████ may have information and they have a pleasant dynamic.

Officer Rizzi related that he arrested ██████████ on February 27, 2016 for criminal trespass to land on signed complaints from the owner of the Marathon Gas Station located at Leamington Street and Madison Avenue. Officer Rizzi stated that there are often issues at this gas station involving narcotic sales. According to Officer Rizzi, he and Officer Cerda had spoken to the owner at this gas station, who informed the officers he wants people selling narcotics removed from his property and he wanted the officers to arrest individuals loitering there. Furthermore, Officer Rizzi indicated that on February 27, 2016, the owner of the gas station told him and Officer Cerda that ██████████ had previously been asked to leave to property, so ██████████ was arrested after refusing to leave. Officer Rizzi stated that February 27, 2016 was his first interaction with ██████████, but it was Officer Cerda who actually spoke to ██████████ and it was the first time that ██████████ had signed complaints. Officer Rizzi reported that ██████████ was outside of his vehicle and involved in interactions, the officers believed to be related to cannabis sales. Officer Rizzi believed he was the one who placed ██████████ into handcuffs. Officer Rizzi indicated that he and Officer Cerda placed ██████████ under arrest for criminal trespass to land and informed ██████████ of such. Officer Rizzi said that ██████████ resisted getting into their police vehicle and asked for a supervisor. Sergeant Luis Gonzalez arrived on scene shortly after. According to Officer Rizzi, he and Officer Cerda informed Sergeant Gonzalez as to why ██████████ was arrested and that ██████████ was refusing to get into Officer Rizzi's police vehicle. Officer Rizzi related that ██████████ agreed to get into Sergeant Gonzalez's vehicle. Officer Rizzi also indicated that a cursory search was conducted of ██████████ vehicle and ██████████ was transported to the 25th District by the sergeant. Officer Rizzi stated that ██████████ vehicle was also towed to the 25th District. Officer Rizzi stated that aside from instructing ██████████ to comply, he did not get upset with, yell at, or insult ██████████. Officer Rizzi denied calling ██████████ a "nigger" or commonly using this word. Officer Rizzi stated he could not recall if there were any additional complaints against him for using racial slurs. Officer Rizzi also denied having taken ██████████ cellphone.

Officer Rizzi recalled, after viewing Attendance and Assignment records, that on April 14, 2016, he was patrolling the 15th District as member of Area North Gangs with his partner, Officer Jorge Cerda. Officer Rizzi did not specifically recall working with Officer Peter Stevens on April 14, 2016 but he did recall working with Officer Stevens on multiple occasions. Officer Rizzi did not recall being near ██████████ on April 14, 2016, nor did he recall searching a vehicle on this date. Officer Rizzi was uncertain if he had seen ██████████ on April 14, 2016, but related he would see ██████████ approximately once a day while working in the 15th District. According to Officer Rizzi, he did not recall any specific details from April 14, 2016. Officer Rizzi initially related that he was unaware ██████████ lives at ██████████. However, later in his COPA interview, Officer Rizzi indicated that he was aware ██████████ uses ██████████ as his address, but ██████████ actually resides in the suburbs with his girlfriend. Officer Rizzi also stated that he would not search a vehicle unless it was in relation to an arrest, a crime was being committed, or the vehicle was being inventoried. In his COPA interview, Officer Rizzi further elaborated that he did not recall a search of a vehicle under any other circumstances.

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Officer Rizzi denied both searching [REDACTED]'s vehicle without justification and disabling [REDACTED] vehicle. (Atts. 13, 23, 36)

A COPA **Interview** was held with accused **Officer Jorge Cerda, Star #10607**, on August 9, 2017. In his interview, Officer Cerda stated that on February 27, 2016, he was working with his partner, Officer Rizzi. Officer Cerda related that he is familiar with the Marathon Gas Station because it is located in an area that has the highest rates of cannabis arrests in Chicago and that there are many cannabis sales at this gas station. According to Officer Cerda, [REDACTED] is a high-ranking leader of the [REDACTED] who runs drug sales from this gas station. Officer Cerda stated he does not often interact with [REDACTED] and when he does, it is when [REDACTED] is seen committing a crime or to ask [REDACTED] about area shootings. Officer Cerda estimated that he has interacted with [REDACTED] approximately 10 times total. Officer Cerda stated that he and Officer Rizzi had been developing information on narcotics sales in the area, which included [REDACTED] and his involvement in gangs and narcotic sales.

Officer Cerda stated that prior to February 27, 2016, he had spoken to employees and/or owners of the Marathon Gas Station who asked for the officers' assistance in arresting and removing individuals loitering, selling drugs, and "gang banging" on the business' property. Officer Cerda stated that he and Officer Rizzi were driving in their police vehicle when they observed [REDACTED] on the gas station property so they pulled into the business' parking lot. Officer Cerda related that he and Officer Rizzi exited their vehicle and spoke to [REDACTED], who was also on foot. Officer Cerda related that he did not observe [REDACTED] doing anything illegal aside from loitering. Officer Cerda indicated that he went inside the Marathon Gas Station and spoke to the clerk (identified as [REDACTED]), who stated he wanted anyone loitering to be arrested. At this point, Officer Cerda obtained a signed complaint from [REDACTED] and [REDACTED] was arrested. Officer Cerda could not recall if [REDACTED] was handcuffed before or after Officer Cerda got the signed complaint. Officer Cerda related that when he and Officer Rizzi attempted to place [REDACTED] into their vehicle, [REDACTED] "stiffened and tensed up," would not listen to their verbal commands, and was yelling expletives. Officer Cerda described [REDACTED] as belligerent and uncooperative and related that [REDACTED] appeared to be under the influence of a narcotic. Officer Cerda indicated that he then called a transport vehicle and a 15th District Tactical Sergeant (identified as Sergeant Luis Gonzalez) arrived. According to Officer Cerda, [REDACTED] was transported by Sergeant Gonzalez to a police station. Officer Cerda denied that Officer Rizzi called [REDACTED] a nigger and stated that he has never heard Officer Rizzi use that word, nor does he know Officer Rizzi to have a racial or ethnic bias. Officer Cerda did not recall a cellphone being taken from [REDACTED]. Officer Cerda further related that [REDACTED] had a green leafy substance in his mouth that [REDACTED] swallowed once they arrived at the police station. Officer Cerda denied the allegation that he arrested [REDACTED] without justification on February 27, 2016.

Officer Cerda could not recall who he was working with on April 14, 2016, but he thought he may have been working with Officer Rizzi as they are regular partners. Officer Cerda stated that he has worked with Officer Peter Stevens on occasion but could not specifically recall if they were working together on April 14, 2016. Officer Cerda indicated that he was aware that [REDACTED] is [REDACTED] address. Officer Cerda stated that he recalled searching a vehicle near this address whose registration returned to [REDACTED] but was unsure of the exact date on which this occurred. Officer Cerda stated that there was a suspicious, unattended vehicle with the windows down and the motor running observed near [REDACTED]. Officer Cerda related that he was working with Officer Rizzi, and he believed also with Officer Stevens. Officer Cerda stated that he and Officer Stevens were dealing with crowd control but he believed Officer Rizzi searched inside the vehicle. Officer Cerda stated that Officer Rizzi gained access to the vehicle because the windows were down. According to Officer Cerda, [REDACTED] was present outside while they were investigating the vehicle and [REDACTED] related he owned the vehicle. Officer Cerda stated that [REDACTED] was given an explanation as to why the vehicle was being

searched. Officer Cerda could not recall if [REDACTED] was given a citation. Officer Cerda indicated that he and the other officers wanted to issue [REDACTED] a citation but [REDACTED] refused to come close enough to the officers for them to do so. Additionally, Officer Cerda related that leaving a citation on the vehicle would have been an option but he could not recall if they did so. Officer Cerda indicated that the officers ran the plates on the vehicle to determine the registration and whether the vehicle was listed as stolen or not. Officer Cerda related that once it was determined the vehicle was not stolen, they officers left the scene. Officer Cerda denied that anything was done to the vehicle to affect its mechanics or prevent it from operating. Finally, Officer Cerda denied the allegations that on April 14, 2016, he searched [REDACTED] vehicle without justification and disabled [REDACTED] vehicle.

An COPA **Interview** was conducted with a witness, **Sergeant Luis Gonzalez, Star #1477**, on July 27, 2017. Sergeant Gonzalez related that on February 27, 2016, he was working in the 15th District. Sergeant Gonzalez related that he is familiar with the Marathon Gas Station at 5107 W. Madison and recalled being present at this gas station on February 27, 2016 around 12:20 AM. Sergeant Gonzalez stated that the 15th District receives complaints related to this gas station on a daily basis regarding loitering, narcotics, and gang-related loitering. Sergeant Gonzalez stated that he and the complainant, [REDACTED], have a rapport in which the sergeant goes to [REDACTED] for information regarding [REDACTED] knowledge of criminal activity and that he talks to [REDACTED] on a weekly basis. Sergeant Gonzalez related that [REDACTED] appears to know a lot of gang members and has been able to give the sergeant information related to shootings and homicides over the last two and a half years.

On February 27, 2017, Sergeant Gonzalez stated he observed two partners from Area North Gangs detaining [REDACTED] at the Marathon Gas station but could not specifically recall the officers' names (identified as Officer Joseph Rizzi and Officer Jorge Cerda). The sergeant related that he was on patrol when he observed a struggle between [REDACTED] and the two officers in which it appeared [REDACTED] was resisting arrest and the three men were arguing. Sergeant Gonzalez related that the officers had signed complaints for trespassing so the sergeant attempted to calm [REDACTED] down and deescalate the situation. Sergeant Gonzalez described [REDACTED] as irate when the sergeant approached the three men and that both officers appeared to be upset. Sergeant Gonzalez could not recall hearing any abusive language from Officer Rizzi or Officer [REDACTED]. Sergeant Gonzalez related that he approached the three men as a group and he recalled telling the officers he would bring [REDACTED] into custody. Sergeant Gonzalez said that [REDACTED] agreed to go into the sergeant's vehicle and [REDACTED] did not want to go with Officer Rizzi and Officer Cerda. Sergeant Gonzalez stated that the only physical contact he observed from the officers was Officer Rizzi and Officer Cerda holding [REDACTED], but nothing excessive and the sergeant observed no injuries on [REDACTED]. Sergeant Gonzalez denied hearing Officer Rizzi call [REDACTED] a nigger and related he has never heard Officer Rizzi use a racial slur.

Additionally, Sergeant Gonzalez related that once in the sergeant's vehicle, [REDACTED] told him that the officers have something personal against [REDACTED] and had approached him in the past. According to Sergeant Gonzalez, [REDACTED] related to the sergeant that Officer Rizzi and Officer Cerda harass [REDACTED], but [REDACTED] gave no specific details. Furthermore, Sergeant Gonzalez related that [REDACTED] told the sergeant he did not feel comfortable with Officer Rizzi and Officer Cerda but Sergeant Gonzalez did not know why. Sergeant Gonzalez did not recall [REDACTED] complaining about his cellphone being taken, nor did he recall seeing either of the two officers taking or holding a cellphone. Sergeant Gonzalez described Officer Rizzi as "gunning and running" and that Officer Cerda was mellower than Officer Rizzi. (Att. 37)

COPA conducted an **Interview** with witness **Officer Eric Lawriw, Star #10197**, on August 1, 2017. According to [REDACTED] February 27, 2017 arrest report, Officer Lawriw was an assisting arresting officer. In his

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COPA interview, Officer Lawriw related that he does not believe he was present for [REDACTED] arrest. Rather, Officer Lawriw recalled that he and his partner, Officer Chris Anderson, helped Officer Rizzi and Officer Cerda with paperwork after the arrest and he could not recall being on scene at the gas station on February 27, 2017. Officer Lawriw stated that he is familiar with the Marathon Gas Station, as there are a lot of shootings and narcotics sales near this gas station. Officer Lawriw also stated that he knows [REDACTED] is a high-ranking member of the [REDACTED] who is involved in narcotics sales around the area of Madison Ave. and Leamington St. Officer Lawriw further stated that he occasionally works with Officer Rizzi and Officer Cerda when his partner has the day off from work. Officer Lawriw described both Officer Rizzi and Officer Cerda as professional and knowledgeable. Officer Lawriw related that he has never heard Officer Rizzi use the word nigger or any racial slurs. (Atts. 13, 43)

On August 10, 2017, COPA conducted an **Interview** with witness **Officer Chris Anderson, Star #17507**. As with his partner, Officer Lawriw, Officer Anderson was listed on [REDACTED] February 27, 2017 arrest report as an assisting arresting officer. Officer Anderson related he does not believe he was present at the Marathon Gas Station on February 27, 2017. After reviewing [REDACTED] arrest report from this date, Officer Anderson stated that he does not believe he and his partner were ever on scene but he and Officer Lawriw assisted with paperwork at the police station. Officer Anderson went on to state that he was aware of who [REDACTED] is and that he had interacted with [REDACTED] before. According to Officer Anderson, [REDACTED] controls "weed sales" at the gas station located at Madison Ave. and Leamington St. Officer Anderson also indicated that he has addressed issues of narcotics sales at the location on previous occasions, but none that specifically included [REDACTED]. Officer Anderson related that he has never heard Officer Rizzi direct profanity at civilians, nor has he heard Officer Rizzi use the word nigger. (Atts. 13, 53)

An **Interview** was conducted by COPA with accused **Officer Peter Stevens, Star #11114**, on July 26, 2017. According to Officer Stevens, on the evening of April 14, 2016, he was working in the 15th District with Area North Gangs in a car with Officer Joseph Rizzi and Officer Jorge Cerda. Officer Stevens related that he recognized a photo of the complainant, [REDACTED], as a high-level narcotics dealer in the area of Madison Avenue and Leamington Street, but he did not specifically recall interacting with [REDACTED] on April 14, 2016. However, Officer Stevens did recall being near [REDACTED] on April 14, 2016 when a vehicle was searched. According to Officer Stevens, he was not aware that the searched vehicle belonged to [REDACTED]. Officer Stevens said that he, Officer Rizzi, and Officer Cerda saw a suspicious unoccupied vehicle in a known drug spot on Leamington Street with the engine running and windows down. Officer Stevens indicated he did not remember searching this vehicle. According to Officer Stevens, his role was crowd control as a group of approximately 15 people were gathering around the scene, so he was giving orders and attempting to keep the crowd away from the search. Officer Stevens related that there would not have been any departmental report for the vehicle search filed after the fact. Officer Stevens recalled that a few individuals said it was their vehicle but refused to identify themselves. Officer Stevens was not sure to what extent the vehicle was searched or if anything was found inside the vehicle. Officer Stevens stated that, to his knowledge, nothing was done to disable the vehicle or prevent it from operating. Officer Stevens denied that he himself did anything to disable [REDACTED] vehicle. While Officer Stevens denied having searched the vehicle himself, he indicated that Officer Rizzi and/or Officer Cerda searched the vehicle but he could not specifically recall which officer(s). Officer Stevens could not recall Officer Rizzi ever using ethnic slurs or Officer Rizzi talking about a cellphone at the April 14, 2016 incident. (Atts. 30, 31)

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[REDACTED]
Supervising Investigator

[REDACTED]
Investigator Kelsey Fitzpatrick

CONCLUSION

COPA recommends a finding of **Not Sustained** for **Allegation 1** against **Officer Joseph Rizzi, Star #3808**, that he arrested [REDACTED] without justification. The question of whether the arrest was justified requires us to examine whether probable cause existed for Officer Rizzi and Officer Cerda to arrest [REDACTED] on February 27, 2016. Probable cause exists when the officer has facts and circumstances which would lead a reasonable person to believe a crime has occurred and that the defendant committed the crime.⁴ This investigation includes the analysis of department reports, an interview of [REDACTED], a To/From report from a phone interview with gas station employee [REDACTED], and interviews with Officers Rizzi and Cerda. The arrest report indicates that [REDACTED], an employee of this gas station, signed a complaint for criminal trespass to land against [REDACTED], where agents of the store or police had previously warned [REDACTED] not to loiter at the gas station. If true, the officers had sufficient probable cause for the arrest.

Officer Rizzi and Officer Cerda provided separate interviews that conflict in ways that undermine the credibility of their arrest report. For example, Officer Rizzi stated that he has never spoken with [REDACTED] and believed Officer Cerda spoke with [REDACTED] for the first time on February 27, 2016. If the officers spoke with the agent for the first time that day, then [REDACTED] arrest would be unjustified. According to Illinois Statute 720 ILCS 5/21-3, notice is a required element to sustain a charge of criminal trespass. Owners or Agents of the Marathon Gas Station, being a mercantile establishment open for public business, would need to make an express warning to [REDACTED] prior to officers making a valid arrest. In contrast, Officer Cerda stated that he had made contact with gas station attendants prior to the date of arrest and learned that [REDACTED] was told not to be there.

Based on information provided during COPA interviews with Officer Rizzi, Officer Cerda, Officer Lawriw, and Officer Anderson, there is little-to-no doubt that [REDACTED] is a member of the [REDACTED] and he runs open air narcotics sales at this Marathon Gas Station. Additionally, [REDACTED] answered the provided phone for [REDACTED] and stated that he is former employee of the Marathon Gas Station. [REDACTED] stated that he knows [REDACTED] and is aware of [REDACTED] selling drugs at the gas station. Most importantly, [REDACTED] stated that [REDACTED] had been told to leave the gas station and that [REDACTED] presence on the property at any future time would be considered trespassing. COPA, however, obtained [REDACTED] statement through a phone call and memorialized the conversation in a To/From report. It is unclear from this report when notice was given to [REDACTED]. While [REDACTED] statement appears to corroborate facts from the arrest report and Officer Cerda's statements, the law requires that the timing of the notice precede the arrest. Based on Officer Rizzi and Officer Cerda's conflicting statements about when Officer Cerda first spoke with agents or owners of the gas station and the lack of specificity in [REDACTED] statement with respect to when notice was given, COPA cannot prove or disprove this allegation.

COPA recommends findings of **Not Sustained** for **Allegation 2**, **Allegation 3**, and **Allegation 5** against **Officer Joseph Rizzi, Star #3808**, that he referred to [REDACTED] as a "fucking nigger," took [REDACTED] cellphone

⁴ People v. Mack, 274 Ill. App3d 983 (1st Dist. 1995).

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and failed to inventory or return it, and that Officer Rizzi disabled [REDACTED] vehicle. While there is insufficient evidence to confirm or refute if any of this actions occurred, these allegations are further discussed in the following three paragraphs.

For Allegation 2 that Officer Rizzi referred to [REDACTED] as a “fucking nigger,” no one but [REDACTED] reported hearing Officer Rizzi make this comment. Furthermore, Officer Rizzi denied ever using this word and Officer Cerda, Officer Lawriw, and Officer Anderson denied having ever heard Officer Rizzi use this word. That being said, when Officer Rizzi was asked if has been accused of any previous additional complaints regarding the use of racial slurs, Officer Rizzi stated that he could not recall. According to department records, Officer Rizzi was previously accused of calling a civilian a “nigger” and a “bitch” in May 2016. It is unlikely that Officer Rizzi would be unable to recall such a potentially damaging allegation, especially in light of that fact that this occurred somewhat recently. Additionally, Officer Rizzi has enough memory and intelligence to hold expertise in gang information, so it is unlikely he would have such a poor memory. Therefore, this weakens Officer Rizzi’s credibility, as it suggests he was being evasive by reporting that he did not actually recall any additional allegations. While this information weakens Officer’s credibility and suggests a pattern of behavior, there is no specific evidence that confirms or refutes if Officer Rizzi referred to [REDACTED] as a “fucking nigger” on February 27, 2016.

For Allegation 3 that Officer Rizzi took [REDACTED] cellphone and failed to inventory or return it, this is another situation where it is the officer’s word against [REDACTED]. As detailed above, Officer Rizzi’s interview with COPA left questions about his credibility. That being said, [REDACTED] also lacks credibility. [REDACTED] has been identified as a high-ranking member of the [REDACTED] and a drug dealer. Furthermore, in his COPA statement, [REDACTED] related that there were no signed complaints against him, nor had he been asked to leave the gas station’s property. These statements are contradicted by witness and accused officers, information from [REDACTED], and department reports. Most persuasive, it behooves [REDACTED] to cast doubt upon the officers he knows are investigating his illicit business by making misconduct claims against them. Likewise, according to COPA records, Officer Rizzi has previously faced allegations related to taking property from civilians on at least three occasions. This information calls into question Officer Rizzi’s credibility and suggests a pattern of behavior. However, with respect to the instant allegations there is no specific evidence that confirms or refutes if Officer Rizzi failed to inventory or return [REDACTED] cellphone on February 27, 2016.

For Allegation 5 against Officer Rizzi that he disabled [REDACTED] vehicle, this is another situation where there is insufficient evidence to determine whether or not this action occurred. For reasons outlined in the above two paragraphs, the credibility of both Officer Rizzi and [REDACTED] is questionable. Other than the contradictory statements of the officer and complainant, there is no evidence to determine if [REDACTED] vehicle was disabled by these Chicago Police officers on April 14, 2016. Therefore, it is not possible to make a determination for this allegation.

COPA recommends a finding of **Sustained** for Allegation 4 against **Officer Joseph Rizzi, Star #3808**, that he searched [REDACTED] vehicle without justification. Officer Stevens and Officer Cerda reported that they observed a parked vehicle running with the windows rolled down outside of [REDACTED] home at [REDACTED]. Both Officer Stevens and Officer Cerda admitted that the vehicle was searched but denied that they themselves searched the vehicle. Furthermore, Officer Cerda stated that it was Officer Rizzi who entered the car and performed a search of the vehicle. Officer Cerda and Officer Rizzi both related that they know [REDACTED] uses [REDACTED] as an address and both exhibited sufficient knowledge of [REDACTED]. In stark contrast to Officer Stevens and Officer Cerda, Officer Rizzi was unable to recall a situation where he searched a vehicle under any circumstances aside from in relation to an arrest, a crime, or vehicle inventory. Therefore,

Officer Rizzi indicated that a vehicle search would not be conducted without some form of department paperwork completed because he would only search vehicle in relation to one of the above circumstances, which all require official paperwork. Specifically, Officer Rizzi stated he did not search [REDACTED] vehicle without justification on April 14, 2016. However, since no arrest was made and no citation was issued, it appears the officers searched [REDACTED] vehicle in hopes of finding something illegal in an effort to target [REDACTED] rather than in some exception to the warrant requirement. Officer Cerda stated that they investigated the vehicle because it was running and because that type of vehicle was often stolen. After conducting a search of the vehicles registration, it came back to [REDACTED]. Officer Cerda stated that they determined the cars registration and the status as not being stolen by simply running the license plate. For the search of this car to be proper, the officers needed either a warrant or an exception to the warrant requirement. In the instant case, no exceptions apply and there was no warrant. The officers came upon a running vehicle and were able to determine its registration and owner through the license plate. Entry of the vehicle was not necessary and promoted no community service function or justifiable police action. Based on the totality of the evidence, it is clear that Officer Steven, Officer Rizzi, and Officer Cerda conducted a search of [REDACTED] vehicle and Officer Rizzi specifically entered that vehicle without lawful justification.

COPA recommends a finding of **Not Sustained** for **Allegation 1** against **Officer Jorge Cerda, Star #10607**, that he arrested [REDACTED] without justification. As laid out in Allegation 1 against Officer Rizzi, the inconsistencies between Officer Cerda and Officer Rizzi's statements regarding when they spoke with the agents of the gas station call into question whether probable cause was established prior to [REDACTED] arrest. Additionally, gas station employee, [REDACTED], who gave a phone interview with COPA, never established whether notice for [REDACTED] not to trespass was given before or after his arrest. Therefore, given the inconsistent evidence regarding whether [REDACTED] was given notice not to enter the gas station property, there is insufficient evidence to prove or disprove this allegation.

COPA recommends a finding of **Sustained** for **Allegation 2** against **Officer Jorge Cerda, Star #10607**, that he searched [REDACTED] icle without justification. As previously set out in Allegation 2 against Officer Rizzi, Officer Cerda and Officer Stevens admitted that on an unknown date believed to be April 14, 2016, they were working with Officer Rizzi when Officer Rizzi entered and searched a car registered to [REDACTED] while ear [REDACTED]. Both Officer Cerda and Officer Stevens admitted to having performed security functions while the search was conducted. Specifically, the two officers stated that they each performed crowd control so the searching officer (identified as Officer Rizzi) could safely search the car. While Officer Cerda stated that he himself never entered the car, he nevertheless admitted his participation in the unlawful search.

COPA recommends a finding of **Not Sustained** for **Allegation 3** against **Officer Jorge Cerda, Star #10607**, that he disabled [REDACTED] vehicle. There is insufficient evidence to determine whether or not this action occurred. There is also no evidence to determine if [REDACTED] vehicle was disabled on April 14, 2016, aside from officer and complainant testimony.

COPA recommends a finding of **Sustained** for **Allegation 1** against **Officer Peter Stevens, Star #11114**, that he searched [REDACTED] vehicle without justification. Again, as previously set out in Allegation 2 against Officer Rizzi and Officer Cerda, Officer Cerda and Officer Stevens admitted that on an unknown date believed to be April 14, 2016, they were working with Officer Rizzi when Officer Rizzi entered and searched a car outside of [REDACTED] that was registered to [REDACTED]. Both Officer Cerda and Officer Stevens admitted they performed security functions while the search was conducted. Specifically, the officers stated that they performed crowd control so the searching officer could safely search the car. While Officer Stevens stated that he himself never entered the car, he nevertheless admitted his participation in the unlawful search.

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COPA recommends a finding of **Unfounded** for **Allegation 2** against **Officer Peter Stevens, Star #11114**, that he disabled [REDACTED] vehicle. While there is insufficient evidence to determine whether [REDACTED] vehicle was disabled, it can be determined that Officer Stevens did not disable this vehicle. Both Officer Stevens and Officer Cerda related that Officer Stevens was not near the vehicle while it was searched and he was performing crowd control. Therefore, Officer Stevens could not have disabled the vehicle.

Approved: [REDACTED]

[REDACTED]
Deputy Chief Administrator, COPA

FINDINGS

Officer Joseph Rizzi

Allegation 1 – Not Sustained
Allegation 2 – Not Sustained
Allegation 3 – Not Sustained
Allegation 4 – Sustained
Allegation 5 – Not Sustained

Officer Jorge Cerda

Allegation 1 – Not Sustained
Allegation 2 – Sustained
Allegation 3 – Not Sustained

Officer Peter Stevens

Allegation 1 – Sustained
Allegation 2 – Unfounded